

84  
(TAB)

GSA MAS Advisory Panel

May 22, 2008 meeting

Additional Questions for Mr. Sims from (Schedule 84) Alan Chvotkin

**(1) QUESTION:** Do the Most Favored Customer (MFC)/basis of award negotiations at contract formation have any application in the agency's contract administration other than for evaluating compliance with, or triggering, the price reduction clause?

**RESPONSE:** Identifying the MFC is part of an overall evaluation of the commercial practices of a contractor in determining how they do business, how their pricing is structured, and what terms and conditions the government would need to pursue in negotiations in order to insure customers receive the best price for product. I believe this is more true for product than for services, in that services acquisitions are almost always going to exceed the threshold for required competition, whereas, a great deal of product is purchased under Simplified Acquisition Guidelines and no competition is required to place an order.

Evaluation of MFC also occurs when the contractor submits requests to add new brands/SINs to their contract.

**(2) QUESTION:** Would you estimate what portion of the time in pre-award negotiation between the government and the contractor is related to the MFC/basis of award issue?

**RESPONSE:** Identification of the MFC and explanation of the MFC during the preaward evaluation process comes up frequently. The Government's main comparison is between the terms and conditions offered the Government compared with those offered the MFC. During the actual contract negotiations, identification of the MFC is verified and the terms offered the MFC are verified. Negotiations then pursue improvements to the initial terms offered the Government. It would be impossible to estimate a specific amount of time as the MFC concept is at the very center of the evaluation and award of MAS contracts. In other words, there is very little time that the MFC doesn't come up in one way or another.

**(3) QUESTION:** Based on your experience, are there other actions GSA or the ordering agencies can take to engender greater meaningful competition in the Schedules at the order level?

**RESPONSE:** GSA could provide additional outreach and training efforts to ensure ordering agencies are aware of the tools available to ensure meaningful competition is received. FAR Part 8 provides ordering activities guidance to ensure adequate competition is received for Delivery Orders or Task Orders they are placing. Additionally, if GSA's electronic e-Buy tool is utilized, the ordering activities can be assured of more than adequate competition. DoD has already undertaken changes to require a minimum of three bids (not three vendors solicited) for service acquisitions over \$100,000. I believe that if agencies receive clear guidance on the safeguards in

place within the FAR and other supplementing regulations this will assist in ensuring adequate competition is obtained for schedule buys.

1  
MOBIS  
(TAB)